IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 20714 of 2004

Between:

Chaitanya Kalasala Junior College, (Aided), B.N. Reddy Nagar, Karmanghat, Ranga Reddy District,
represented by its Special Officer, Sri P. Ramakrishna Reddy, District Vocational Educational Officer,Ranga Reddy District
O/o Director of Intermediate Education, Andhra Pradesh,Hyderabad.

..... PETITIONER

AND

1 Joint Registrar, OSD/F.R.127, Charminar Co-operative Urban Bank Ltd, Hyderabad.
2 The Commissioner, Board of Intermediate Education, Andhra Pradesh, Hyderabad.
3 R. Sundara Ramaiah,
R/o H.No. 190, B.N. Reddy Nagar, Ranga Reddy District.
4 Chaitanya Kala Samithi, Rep. by its Secretary,
Karmanghat, Hyderabad, Ranga Reddy District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or order or direction, especially one in the nature of Mandamus, declaring that: (a) Notice dated 5th October, 2004 bearing E.P.No. 498 of 2002 issued by the Joint Registrar, O.S.D/F.R. 127, Charminar Cooperative Urban Bank Limited, Hyderabad, proposing to sell away the Petitioner College's properties, as arbitrary, illegal, unjust and is unsustainable (b) Notice dated 28th July, 2003 in E.P.No. 498/2002 issued by the Joint Registrar, O.S.D/F.R. 127, Charminar Cooperative Urban Bank Limited, as arbitrary, illegal and unjust, (c) the properties of Chaitanya Kalasala Junior college or the Chaitanya Kala Samithi, the educational Agency of Chaitanya Kalasala Junior College cannot be sold for realization of any

amount due from Mr.P. Sundara Ramaiah, the former Correspondent of the Chaitanya Kalasala Junior College in execution of Award dated 28th November, 2001 in A.R.C. 24 of 2001 before the Deputy Registrar/Arbitrator, Chairminar Cooperative Urban Bank Limited, Hyderabad, and issue a consequential direction directing the respondents not to interfere with, deal with in any manner whatsoever, affect the properties of the Petitioner college and its educational Agency, for realization of any amount due to Charminar Cooperative Urban Bank Limited.

Counsel for the Petitioner: Kum. C. Sindhu Kumari

Counsel for Respondent No.1:Mr. Nooty Rammohan Rao, SC for Bank.

The Court made the following at the admission stage:

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.20714 OF 2004

ORAL ORDER :

Heard the learned Counsel for the petitioner and the learned Counsel for the first respondent and perused the material on record.

This writ petition is filed seeking a declaration that the sale notice, dated 05-10-2004, in E.P.No.498 of 2002 issued by the 1st respondent – Joint Registrar, O.S.D./F.R.127, Charminar Co-operative Urban Bank Limited proposing to sell away the properties specified thereunder is arbitrary and illegal.

The petitioner claims to be a recognized educational institution admitted to Aid by

the State Government and affiliated to the Board of Intermediate Education. As can be seen from the impugned sale notice, the immovable properties belonging to the petitioner College are proposed to be sold stating that the same are mortgaged / attached in satisfaction of Rs.2,31,13,039/-due to the Charminar Co-operative Urban Bank Limited from the third respondent herein under the Award dated 28-11-2001 in A.R.C.No.24 of 2001. The impugned notice also shows that the petitioner College is being managed by the third respondent being Secretary of the fourth respondent Society who is the defaulter under the Award in A.R.C.No.24 of 2001, and that the properties in question are brought to sale in execution of the said Award.

The contention of the petitioner is that the immovable properties mentioned in the impugned sale notice in which the petitioner College is located belong to the petitioner, which is a private institution and that the third respondent had no power or authority to deal with the said properties and that any transaction between the third respondent and the Charminar Co-operative Urban Bank is null and void in view of the statutory declaration under Section 28 (4) of A.P. Education Act. It is further contended that since 2001 the petitioner College is being administered by the Special Officer and for all practical purposes the said Officer is the management of the institution and therefore the award dated 28-11-2001 in A.R.C.NO.24 of 2001 cannot be enforced against the properties of the petitioner institution.

It is to be noted that Rule 52 of A.P. Co-operative Societies Rules, 1964 deals with the procedure for execution of decrees and decisions or orders passed under the A.P. Co-operative Societies Act. As per the procedure prescribed, any claim or objection made to the attachment of any property on the ground that such property is not liable to attachment shall be investigated by the Sale Officer and shall be disposed of on the merits. In the light of the efficacious alternative remedy available under the statute, I am of the view that, without exhausting the said statutory remedy, the petitioner cannot invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

In the circumstances, the Writ Petition is disposed of granting leave and liberty to the petitioner to work out the remedy as available under the Statute within a period of

two weeks from today. If any claim is made by the petitioner raising objection to the sale of the property in question within the time specified above, the same shall be considered and disposed of in accordance with law as expeditiously as possible preferably within a period of four weeks thereafter. Till such time, there shall be a direction to the 1st respondent not to take any coercive steps against the petitioner including the sale of the property in question in execution of the award in A.R.C.No.24 of 2001.

The Writ Petition is accordingly disposed of. No costs.

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10th November, 2004.

ghn

Note:C.C by 11-11-2004

B/o

Ghn/gbs

To

1 Joint Registrar, OSD/F.R.127, Charminar Co-operative Urban Bank Ltd, Hyderabad.
2 The Commissioner, Board of Intermediate Education, Andhra Pradesh, Hyderabad.
3 R. Sundara Ramaiah,
R/o H.No. 190, B.N. Reddy Nagar, Ranga Reddy District.
4 The Secretary, The Chaitanya Kala Samithi,
Karmanghat, Hyderabad, Ranga Reddy District.

5 Two CCs to the Government Pleader for Cooperation, High Court of A.P.,

Hyderabad.

6 Two CD copies.